



Reply to the attention of:

OCT 13 2009

MEMORANDUM FOR

RON CURRY, Secretary
New Mexico Environment Department

FROM:

Steven F. Witt, Director *Steven F. Witt*
Directorate of Cooperative and State Programs

Thomas Galassi
Thomas Galassi, Director
Technical Support and Emergency Management

SUBJECT:

Approved Memorandum of Agreement for Use of Salt Lake
Technical Center (SLTC) Laboratory Services

We are pleased to transmit a copy of the FY 2010, signed Memorandum of Agreement (MOA) between Federal OSHA and the New Mexico Environment Department. The MOA establishes conditions under which the Salt Lake Technical Center (SLTC) will analyze all industrial hygiene samples collected by compliance officers of the New Mexico OSHA program, and the New Mexico Environment Department will reimburse Federal OSHA for these laboratory services. The original MOA will be kept on file at the SLTC.

The SLTC will provide you with any information you may need on submission of samples and receipt and explanation of results. If you have any questions regarding sample procedures, you should contact the Director, SLTC, telephone: (801) 233-4900. You will be billed on a quarterly basis for all samples analyzed. If you have any questions regarding billing, please contact Jim Digan, Director, Office of Program Budgeting and Financial Management, e-mail: digan.jim@dol.gov, telephone: (202) 693-2111.

We are pleased that you have decided to continue to utilize the services of the SLTC. We hope this service will be of benefit to your program, and we look forward to your continued participation in this program.

Attachment

cc: Butch Tongate, Bureau Chief - New Mexico OHSB
Dean McDaniel, Regional Administrator

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NMED-OSHA

Appendix B – Exhibit XI

Memorandum of Agreement for FY 2010

Under Section 18 of the Occupational Safety and Health Act of 1970

between the New Mexico Environment Department

and

**the Occupational Safety and Health Administration (OSHA),
United States Department of Labor**

for Laboratory Services by the Salt Lake Technical Center (SLTC)

Establishing conditions during FY 2010 under which the New Mexico Environment Department, which operates a State Plan approved by the Occupational Safety and Health Administration (OSHA) under Section 18 of the Occupational Safety and Health Act of 1970 will pay the Occupational Safety and Health Administration – Salt Lake Technical Center for laboratory services related to analysis of industrial hygiene samples collected during State occupational safety and health compliance activities.

I. Terms of Agreement

- A. OSHA through its Directorate of Science, Technology and Medicine – Salt Lake Technical Center will provide analytical services with regard to all industrial hygiene samples gathered during compliance-related activities (and On-site Consultation program activities in the public sector) by the New Mexico Environment Department. This service is being provided at the State's request. SLTC will provide the same analytical services to the New Mexico Environment Department as are provided to the Federal OSHA program, in the same manner and to the same extent. Specific policies and procedures for receipt and analysis of samples and delivery of results will be provided and agreed upon separately between the State and SLTC. Samples will be subject to the same chain of custody, priority and quality assurance procedures as the Federal program; expert witness testimony, when required, will be provided by the SLTC to the New Mexico Environment Department. Participation in State Plan enforcement litigation will be governed by the policy established in the January 21, 1998, memorandum from the Office of the Solicitor of Labor to the Assistant Secretary (63 FR 35611).
- B. The New Mexico Environment Department agrees to utilize the services of the OSHA Salt Lake Technical Center as its primary/exclusive laboratory for compliance-related sample analysis, and to follow the policies and procedures established for sample gathering and submission by the Federal program.

Samples gathered as a result of On-site Consultation program activities in the private sector, whether pursuant to a Section 21(d) On-site Consultation Agreement or under the State Plan, may not be submitted to the SLTC for analysis. Samples collected during either compliance or consultation program activity in the public sector will be accepted for analysis by the SLTC.

II. Cost and Payment

- A. The SLTC laboratory will provide these laboratory services at a cost of \$175 per sample analyzed. This will include all related activity including expert technical advice and consultation and testimony, as mutually agreed appropriate. There will be a special charge rate for four exceptional sample types:

-CO Methoxyhemoglobin Calculation	\$1,150
-Explosibility	\$ 710
-GC/MS* Identification	\$ 465 (* Gas Chromatograph/Mass Spectrometer)
-Materials Failure	\$2,820

Quarterly accountings of numbers of samples analyzed for the State will be provided together with a bill requesting payment. The fourth quarter payment will be based on an estimated bill. All bills must be paid upon receipt but no later than September 15, 2010. Any adjustments between actual and estimates will be made in the first quarter of the following fiscal year.

- B. The New Mexico Environment Department anticipates a sample workload of approximately 50 per year and will pay the U.S. Department of Labor, Occupational Safety and Health Administration, for all services provided upon receipt of billings, but no later than September 15, 2010. The New Mexico Environment Department will include sufficient funds for these expenses in its annual State Plan grant application and will pay OSHA with Federal and State grant funds allocated to the program. The New Mexico Environment Department understands that the additional Federal staff and resources necessary to provide this service are being made available by OSHA based on the expectation of State Plan payment for at least the estimated number of samples.

III. Contacts

The New Mexico Environment Department contact for purposes of this agreement is

Albert Ibarra, MBA
Administrative Programs Manager
New Mexico Environment Department
Occupational Health And Safety Bureau
525 Camino de los Marquez, Suite 3
Santa Fe, NM 87505
505-476-8702 or (877) 610-6742
Cell 505-795-3774

The OSHA contact for SLTC is:

Dean Lillquist, Director
Salt Lake Technical Center
USDOL-OSHA
8660 South Sandy Parkway
Sandy, UT 84070-6424
Phone: (801) 233-4902

The OSHA contact for bill processing is:

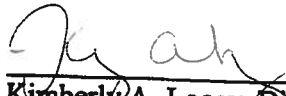
James Digan, Director
Office of Program Budgeting and Financial Management
USDOL-OSHA
200 Constitution Ave., NW, Room N-3419
Washington, DC 20210
Phone: (202) 693-2111
E-mail: digan.jim@dol.gov

IV. Other Services

The Salt Lake Technical Center will continue to provide other services to the New Mexico Environment Department, such as assistance from the Health Response Team (HRT), in the same manner as currently provided. Requests for such services are to be coordinated through the Regional Office.

V. Period of Agreement

This agreement is entered into for the period **October 1, 2009 through September 30, 2010**, and may/will be renewed annually thereafter, on a fiscal year basis.



Kimberly A. Locey, Director
Administrative Programs
Occupational Safety and Health Administration
U.S. Department of Labor

Signed 10/2/09, 2009



Authorized State Representative
State Plan agency

Signed 8/1/09, 2009